

Planning Commission UDO Public Hearing Comments

The comments below represent all written comments submitted at the joint public hearing, all Planning Commission comments received during the subgroup meetings and any staff identified comments. Each comment contains a staff response to explain the regulation and a recommendation. Any recommended change to the text is shown as ~~strikethrough text~~ to be removed and **bold text** for additions.

The comments are organized sequentially by section. Each comment is individually numbered. For the sake of clarity, similar comments are grouped with one staff response. The report is organized in three sections: public comments (in black text), Planning Commission comments (in blue text) and staff comments (in purple text).

Chapter 4 Comments

Planning Commission Comments

1. Is the word or term “courtyard” defined within the UDO? It seems important for certain development types.

Response: The term “courtyard” is used in the UDO; however, the term is not present in Chapter 4. The term is used almost exclusively in conjunction with the Cottage Court development option in Chapter 2. The intent of the term is to be synonymous with open space.

Recommendation: Staff agrees with the comment, and suggests that the term “Courtyard” be added to chapter 12: definitions. The definition could read:

“An area of open space, either landscaped, hardscaped or both surrounded by structure(s). Vehicular surface area and parking are not permitted within a courtyard.

Staff Comments

1. Conservation Management General Provisions

To be consistent with Section 9.1, the minimum basal area should be increased. Section 4.2.1.C on page 4-3 should be amended to read:

“C. All CM-zoned primary tree conservation areas shall have tree cover by either preserving existing trees with a basal area of at least **50** ~~30~~ square feet per acre as determined by increments of 50 feet in length or if such trees are not present, shall be planted with shade trees in accordance with Sec. 9.1.9.

2. Conservation Management – Open Lot

Staff suggests adding allowable building elements for an open lot. Section 4.2.2.D should be amended to read:

D. Allowed Building Elements	
Porch	stoop none
Patio	
Balcony	
Gallery	
Awning	
See sec. 1.5.11 for specific building element requirements	

3. Heavy Industrial – Setbacks

Staff suggests clarifying the required side yard setbacks for a general building in the IH zoning district. The current regulations require that the sum of side yard setbacks be 40 feet. It may be confusing if one of those side yard setbacks is adjacent to a street, as the required setback in this instance is 50 feet. Staff suggests modifying section 4.4.1.B4 on page 4-6 to read:

B. Building/Structure Setbacks	
B1 From primary street (min)	50'
B2 From side street (min)	50'
B3 From side lot line (min)	0'
B4 Sum of side interior setbacks (min)	40'
B5 From rear lot line (min)	0'
B6 Sum of rear and primary street setbacks (min)	70'

4. Manufactured Housing – Intent Statement

Staff suggests adding language to clarify the intent of the Manufactured Housing district. Section 4.5.1.A on page 4-7 should be amended to read:

“A manufactured home development must be at least 10 acres in size and be devoted to **one** of the following uses:”

5. Manufactured Housing – Site Development Standards

Staff suggests adding clarifying language to the manufactured home site development standards on page 4-7. The following sections should be amended to read:

“B. Streets, Sidewalks and Protective Yards

1. All manufactured home spaces and lots must front on a street meeting the requirements of Article 8.4 **or Article 8.5.**

2. Sidewalks must provide pedestrian access within the development served and connect with public sidewalks, public streets and greenway access points.
3. A Type B1 or B2 transitional protective yard (See Sec. 7.2.2.A) must be established along all ~~shared~~ **perimeter** property lines.
4. A Type C1 or C2 street protective yard (see Sec. 7.2.2.B) must be established along all property lines abutting a public right-of-way.

C. Open Space Standards

1. Minimum Acreage Required

a. The required minimum outdoor open space provided for a manufactured home development shall be the greater of either:

i. 10% of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way; or

ii. 435.6 square feet per unit.

b. Required minimum open space may be conveyed to the government, **and if accepted**, without reimbursement as part of a greenway easement.

c. No off-street parking, drives or buildings shall be located in the open space, except when required to serve recreation facilities **located within the open space**.

(See Sec. 6.7.3.I)

6. Manufactured Housing – Clearing of Drainage Ways

Staff suggests modifying the regulations on page 4-8 regarding the clearing of drainage ways for manufactured housing. Section 4.5.2.E should be amended to read:

“E. Clearing of Drainage Ways

During the construction, preparation, arrangement and installation of improvements and facilities in a manufactured home development, the stream bed of each stream, creek or backwash channel **located within** ~~contiguous to~~ the manufactured home development shall be maintained in an unobstructed state and the channel and banks of the stream shall be kept free of all debris, logs, timber, junk, and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains,

culverts, bridges or dams for water impoundments shall not be construed as obstructions in the stream.”

7. Manufactured Home Space Standards

Staff suggests clarifying the language for manufactured home space standards on pages 4-8 and 4-9. Section 4.5.3 should be modified, beginning with subsection C2 to read:

“2. Other Buildings and Uses

Buildings and uses located in a manufactured home development, other than manufactured homes, shall not locate within 30 feet of a manufactured home or 20 feet of a street right-of-way, **or within 5 feet of a side or rear property line.**”

Staff also suggests clarifying language regarding accessory structures and adding allowed building elements, similar to other building types in the residential zoning districts. Subsection E could be modified on page 4-9 that reads:

“E. Accessory Structures

1. A detached accessory structure, including but not limited to storage shed, storage tank, greenhouse, horse stall, or gazebo, may be located within 10 feet of the manufactured home **located on the same lot** it is an accessory to but may not exceed 100 square feet in size.

6. **The allowed building elements for a manufactured home are a porch, stoop, or gallery in accordance with section 1.5.11.**

Further, subsection E4 of Section 4.5. 3 should be modified to read:

“4. Garages may not exceed 300 square feet in size and may not be located within 20 feet of ~~any another~~ manufactured home or 10 feet of an open structure associated with another manufactured home. Garage and carport placement must comply with the standards of Sec. 1.5.12.”

8. Campus District – Intent Language

Staff suggests that the language in 4.6.1.A be modified to replicate the intent statement in 4.1.1. Section 4.6.1.A on page 4-10 should be modified to read:

“A. Single Entity

1. Each CMP District must be under the control of a single entity, whether a governmental, ~~hospital medical college or university higher learning educational facility.~~ **hospital medical college or university higher learning educational facility.**

2. Each CMP District must either have a minimum site area of five acres or one or more contiguous City blocks.
3. In the event that a portion of the property zoned CMP District is sold to a third party who is not a governmental, medical or higher learning facility (thereby becoming non-compliant with this Article), the non-compliant property must be rezoned.”

9. Planned Development – Application Requirements

Staff suggests modifying Section 4.7.4 A 4 to read:

“General Layout Map delineating the boundaries of all base district, including height, **overlay districts** and frontage designation (if any).”

Also, section 4.7.4.B.5 on page 4-14 should be modified to read:

“A general description of how the PD district ~~complies~~ **conforms** with the Comprehensive Plan.”

10. Planned Development – General Design Principles

Staff suggests modifying section 4.7.5.G to add:

“Bicycle circulation is accommodated on streets and on dedicated bicycle paths, greenways or trails **w/ adequate bicycle parking facilities being provided at appropriate locations.**”

11. Planned Development – Amendments

As proposed, the UDO does not contain any provisions to amend a Master Plan document. Currently, amendments are handled differently between all approved Master Plans, based on language contained within the zoning code. Some Master Plans reference certain amendments that can be approved administratively, while others require site plan approval by the Planning Commission or City Council. The latter will be problematic in the future, as the UDO does not provide a site plan approval path for Planning Commission or City Council. With the removal of the eight site plan standards, there will be no guidance for approval.

Staff suggests discussing the matter with the Planning Commission. It would be beneficial to include standards for a unified approach to amending a Master Plan in the UDO.

Deferred Items

During the course of review, the Planning Commission has deferred certain items to allow for more analysis and discussion. Below are some of the deferred items. Each item contains the original comment, a synopsis of the Planning Commission discussion, and a suggested resolution.

Chapter 1

1. Outdoor Amenity

1.5.3.B – Comment A.4 Outdoor Amenity Areas – All Mixed-Use buildings must have an outdoor amenity area = 5% of the lot. Does tree save area count toward this?

Response: The Planning Commission reviewed this comment on March 20, 2012, and recommended that the language be altered. The Planning Commission agreed with the commenter and directed staff to revise the language and bring back for a final recommendation. At issue is the location of a tree conservation area within an amenity area. Also, the term “built” would be removed from 1.5.3.B.4.

Resolution: Section 1.5.3.B. on page 1-10 should be amended to read:

B. Outdoor Amenity Area

1. Where outdoor amenity area is required in Chapters **2 and 3**, it must be provided on-site and must be available for use by or as an amenity for the occupants, invitees and guests of the development.
2. Required outdoor amenity area may be met in one contiguous open area or in multiple open areas on the lot; however, to receive credit, the area must be at least 10 feet in width and length.
3. Required outdoor amenity area may be located at or above grade.
4. Required outdoor amenity area cannot be ~~built~~, parked or driven upon, except for emergency access and permitted temporary events.
5. Required outdoor amenity area may be roofed but cannot be enclosed.
6. **Required tree conservation may be used to meet the 5% amenity area if located on the same lot as the principal building/use.”**

2. Height – 1.5.7

Comment I.3 Also, typical of churches, Hayes Barton may have a roof that slopes more steeply than other buildings. The current code accommodates this by measuring the average roof height rather than the highest peak of the roof, which allows a taller building if it has a steeply pitched roof. If a building's height is not to be defined as an average height of a sloped roof, the allowable height should be greater than it is currently defined in the proposed Ordinance. Also, it would be a mistake to eliminate the flexibility in the current code to build a taller structure if the owner can take advantage of a larger site. The mandatory 40 foot maximum is simply too harsh and too arbitrary.

Response: The Planning Commission deferred discussion on this item on March 20, 2012, and directed staff to research height of existing churches. The commenter makes two points: the method for measurement of height is problematic, and the allowance to gain greater height on a larger site is desirable. The UDO proposes to change the method for measuring height from the midpoint of the roof to the peak of the roof. This was done to gain more predictability and remove the mystery of maximum height for citizens and developers alike. The UDO also removes the existing allowance to gain additional building height if a structure is located further from the minimum required setbacks. Again, this regulation is changing in an effort to gain more predictability.

Staff did perform a field survey of existing churches around the City. The average height of the churches surveyed was approximately 35 feet, measured to the peak of the roof. One church, the subject of the comment was just over 40 feet in height. The church in question is located at the intersection of Glenwood and Whitaker Mill Road, and is currently zoned O&I-1. This property would likely be rezoned to OX, thereby permitting a greater maximum height.

A civic building in the R-1, R-2, R-4 and R-6 zoning districts has a maximum height of 40 feet. A civic building in the R-10 zoning district has a maximum height of 45 feet. Additional height is permitted in the mixed use zoning districts. At issue is a question of zoning district and surrounding context. The less intense residential districts (R-1 through R-6) do permit residential institutions such as churches and schools. Several public comments have been received throughout the review of the UDO concerning the impact of residential institutions on existing neighborhoods. Issues such as building mass, transitions and parking have been common points of discussion.

To increase the maximum height for all civic buildings in all residential zoning districts may have some unintended consequences. Where additional height and intensity is appropriate, a mixed use zoning district may be applied.

Recommendation: Staff recommends no change to the text.

3. Floor-to-Ceiling Height - 1.5.7.C

Comment K.14 Concern with stipulating height of interior building space. Allow building code to govern here. Let UDO provide guidance for exterior building dimensions only. Concern over increased regulations and restrictions on market preferences.

Response: The UDO provides a regulation for interior floor-to-ceiling height for building types in mixed use zoning districts. Most building types are set at nine feet. The general and mixed use buildings have higher floor-to-ceiling heights. This regulation is particularly important in the general and mixed use building types. The

increase is to accommodate a retrofit of the ground floor space into a non-residential building occupancy.

In these contexts, the fire separation between non-residential uses on the ground floor and residential uses in the upper stories is important, and extremely difficult to provide post-construction. For example, a developer may propose to construct a mixed use building, or may be required to construct one due to a frontage or other zoning condition. The market may not support non-residential uses on the ground floor at time of initial occupancy. The taller floor-to-ceiling heights for the ground floor will ensure that the building accommodates a conversion to non-residential in the future.

The Planning Commission deferred this item on March 20, 2012. The regulations are specified in chapter 3. If those regulations are removed from chapter 3, section 1.5.7.C should be removed as well.

Recommendation: Staff suggests removing the ground story height and upper story height regulation for the following building types: Detached House (sec. 3.2.1), Attached House (3.2.2), Townhouse (3.2.3) and Apartment (3.2.4).

3. Garages – 1.5.12

Comment E.1: The residential garage options are too restrictive. (Commenter submitted a case study of the Avalon Subdivision, in which 89% of the garages would be made non-conforming under the UDO).

Comment K.12: We do not see the need to regulate to such a detail the architectural style (garage location and orientation) of a single-family residential dwelling. As currently worded, upon adoption, the UDO will render a substantial number of residences (including the majority of all townhomes with garages) non-conforming and cause them to suffer irreparable damage in their marketability. Should current Senate Bill 731 be enacted in a form similar to its current wording, this section of the UDO would be improper. The group suggests dropping this section, or at the very least adding to the non-conforming section a provision that grandfathers all dwelling units such that they could be re-built "as is" in the event of casualty damage. Our concern is that corrective language about exiting garages has no effect. Exemption should be dwelling permitted with a garage as of date of adoption. The exemption should go with the house, not the garage otherwise there is still a non-conforming issue.

Response: The Planning Commission deferred discussion on this item on March 20, 2012. Staff was directed to evaluate alternatives that would loosen but not eliminate the residential garage standards.

Recommendation: Amend the “semi-flush” option on page 1-20. This option should be renamed “front facing”. Section 1.5.12.D.1 should be amended to read:

1. **Front facing-Semi-Flush**
 - a. Garage doors are oriented toward the street
 - b. **The garage door(s) may not comprise more than 50% of the width of the front façade of the house.** ~~Garage doors must be positioned between 5 and 20 feet behind the front wall plane of the house (or any rear wall plane that adjoins a street), extending no more than 30% of the width of the house.~~
 - c. **The garage door may not extend more than eight feet beyond the front wall plane of the house.**
 - d. **If the garage doors are recessed behind the front plane of the house by more than six feet, the garage doors may comprise more than 50% of the width of the front façade of the house.**
 2. Recessed
 - a. Garage doors are oriented towards the street.
 - b. Garage doors must be positioned at least **10** ~~20~~ feet behind the front wall plane of the house.
 3. Side-Loaded
 - a. Garage doors are oriented perpendicular to the front wall plane.
 - b. ~~Any wall of the garage must be located at least three feet behind the front wall plane of the house.~~
 4. Carriage Court
 - a. Garage doors are oriented perpendicular to the front wall plane.
 - b. Garage is located entirely in front of the house, **and is attached to the house.**
- E. Townhouse
2. Front-Loaded
 - a. Garage doors may constitute no more than 50% of the width of the individual townhouse unit.
 - b. Combined parking and driveway area shall not constitute more than 50% of the area between the front building façade and the front property line.
 - c. Any parking in the front setback must have sufficient depth so that parked cars do not encroach on the adjacent sidewalk. **To provide sufficient depth,** the garage doors must be set back at least 20 feet from the sidewalk.

- d. Garage doors must be recessed at least one foot behind the front wall plane, or a second story element over the garage doors must be provided that extends at least one foot beyond the front wall plane.

B. Applicability

1. Any private residential garage constructed after the effective date of this UDO must meet the standards of this section. Alternative compliance may be considered by the Planning and Development Officer, consistent with the intent of this section.
2. In addition to the standards provided below, attached and detached garages must meet all applicable requirements for either principal buildings or accessory structures as set forth in this UDO.
3. **Any garage constructed prior to the adoption of this UDO that does not comply with these private residential garage parking options is not considered non-conforming. If a pre-existing garage is willfully demolished, any new garage must be constructed in compliance with these regulations.**

Chapter 2

4. Minimum Lot Depth in Townhouses – 2.2.3

Comment G.6: Minimum Townhouse lot widths and depths - New concept which will discourage and complicate Townhouse development. 18 and 20 feet minimum widths too wide, 75 foot minimum depth too deep.

Response: The Planning Commission deferred discussion on this item on March 27, 2012. As was discussed, minimum lot width has been reduced to 16 feet. Staff was directed to evaluate the minimum lot size of townhouse lots.

Recommendation: Staff agrees with the commenter. The minimum lot area in section 2.2.3.B1 should be removed. The lot size should read “n/a”.

B. Lot Dimensions	
B1 Area (min)	N/A 1,200 sf
B2 Width (min)	16'

5. Backyard Cottages – 2.4.2

Comment B.3: The permission of accessory housing or “granny flats” in certain cases is a good step as are the reduced parking requirements under certain circumstances for affordable housing developments or senior housing.

Comment C.1: We are concerned with the potential doubling of density across the board in R zones through auxiliary apartments or backyard cottages.

Response: The Planning Commission discussed backyard cottages on April 3, 2012. The deferred conversation was related to the required parking for backyard cottages. As written, the UDO requires one parking space for a backyard cottage, in addition to two required parking spaces for a detached house. It is uncertain if an existing house that does not provide on-site parking would be required to construct three parking spaces with the construction of a backyard cottage.

Recommendation: Staff suggests that the intent be made clear. The required parking would only be enforced for the additional dwelling unit. The primary dwelling would not be required to bring parking into compliance. A new section should be added that reads:

“Sec. 2.4.4. Required Parking

One parking space is required for a backyard cottage or accessory apartment. If the primary dwelling does not meet the minimum number of required parking spaces as specified in section 7.1.2, additional parking is only required for the additional unit added to the premises. Additional parking is not required for the primary dwelling in this instance.”

Pending Deferred Items

This is a list of pending deferred items. These topics will not be discussed at this meeting. After further staff research, they will be re-introduced at a later meeting.

1. Rules of Interpretation

Section 1.2.3 - Staff comment New Section: The Planning Commission deferred discussion of this item on March 20, 2012. Staff was directed to write an introductory statement.

2. Infill

Comment G.9, G.13 and K.25 Infill regulations: The Planning Commission deferred discussion of these items on March 27, 2012. Staff was directed to evaluate the regulations (specifically side-wall height at the setback line).

Comment K.25 Infill regulations: The Planning Commission deferred discussion of these items on April 3, 2012. Staff was directed to evaluate in conjunction with the above item. Planning Commission directed staff to explore options, and potentially evaluate modifying the required offset as a percentage of the width of the structure.

3. Conservation Development

Comments G.1, G.2 and K.26 Conservation Development Option: The Planning Commission deferred discussion on conservation development on April 3, 2012.

Staff was directed to explore a third option that is similar to the existing cluster development option.

4. Transparency

Public Hearing Comment: Planning Commission deferred discussion on transparency on **xxx**. Staff was directed to evaluate the transparency requirements. The framework for transparency regulations is contained in section 1.5.9. The standards are contained in chapter 3, regulated by building type.

5. Required Streetscape in Parking Limited Frontage

Staff Comment: The Planning Commission deferred discussion on April 17, 2012. The Parking Limited frontage allows a range of streetscape treatments at the right-of-way. Staff was directed to explore alternative wording that would allow some flexibility with the application, while not losing staff oversight. Discussion centered on adding "As determined by the Planning Director based on adjacent context."

6. Neighborhood Transitions

Staff Comment: The Planning Commission deferred discussion of this item on April 17, 2012. The zone A in the transition permits landscaping and walls and fences. There was a desire exclude parking areas and stormwater facilities from zone A. There was discussion regarding the allowance and appropriateness of locating stormwater features within zone A. Staff was directed to research the issue further.